

IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl. Revision No. 245 of 1994

Date of decision : August 01, 2007

Kulwant Singh

.... Petitioner

versus

State of Haryana.

.... Respondent

Coram : Hon'ble Mr. Justice A.N. Jindal

Present : Ms. Sumanjit Kaur, Advocate for
Mr. J.S. Mehendiratta, Advocate
for the petitioner.

Mr. K.S. Godara, DAG, Haryana
for the respondent.

A.N. JINDAL, J.

Challenge in this petition is to the judgment dated 5.4.1994 passed by the learned Additional Sessions Judge, Faridabad, vide which the judgment dated 5/6.12.1991 passed by the learned Chief Judicial Magistrate, Faridabad convicting and sentencing the accused-petitioner Kulwant Singh (hereinafter referred to as 'the petitioner') under Section 16 (1) (a)(i) of the Prevention of Food Adulteration Act, 1954 (hereinafter referred to as 'the Act') for eight months and a fine of Rs.1000/- was upheld.

In nut-shell, the facts which culminated into trial against the accused are that on 14.10.1987, at about 12.15 PM, the complainant Government Food Inspector S.R.Malik and Dr. (Mrs.) M.K. Bhatia, Deputy Chief Medical Officer (Health), inspected the premises of the petitioner i.e. canteen in Frick India Limited 13/3, Mathura Road, Faridabad and found 8 kgs of haldi powder for sale. The complainant purchased 600 grams haldi powder for Rs.12/- and sent the same for analysis. The Public Analyst, Haryana after analyzing the said sample, found the same to be adulterated as it contained wheat and rice starch and added un-permitted metanil yellow coalter dye and added prohibited orange oil soluble coalter dye.

Consequently, after examining pre-charge evidence, the accused was indicted under Section 16(1)(a)(i) of the Act.

In post-charge evidence, the prosecution examined S.P. Malik, Government Food Inspector (PW1) and Dr. (Mrs.) M.K. Bhatia,

District Malaria Officer (PW2).

When examined under Section 313 of Cr.P.C. the petitioner denied all the incriminating circumstances and pleaded his false implication in the case. He further pleaded that on 14.10.1987 he was working as Labour Welfare Officer in Frick India Limited and from his office he was called by the Food Inspector and his signatures were taken on certain papers as witness. He further submitted that the canteen was being run for the workers and the food articles prepared in it were sold to the workers of the factory on subsidized rates. He denied to have sampled as such.

In defence, the accused examined Brij Bhushan Bhatia (DW1), Ganga Parshad (DW2), Lachman Singh (DW3) and then closed the same.

The trial ended in conviction. Appeal against the said order was also dismissed. Hence this petition.

Without challenging the judgment of conviction, the learned counsel for the petitioner has contended that it would not be appropriate or fair in the proper administration of justice to send the petitioner in jail after more than 19 years particularly when as per his contentions, the petitioner has not repeated any such offence till date.

Having deliberated over the aforesaid contentions, since the sword of sentence remained hanging over the head of the petitioner since the year 1987 till date and he has already suffered a lot on account of the criminal proceedings pending against him, therefore, I do not find any justification to send him again in jail in the peculiar circumstances of the case and a lenient view deserves to be taken in his favour.

Consequently, while dismissing the revision petition, the sentence passed against the petitioner is modified to the extent that it is reduced to the period already undergone. However, the fine awarded against him is enhanced to Rs.10,000/-.

Learned Chief Judicial Magistrate, Faridabad is directed to procure the presence of the petitioner for recovery of fine.

August 01, 2007
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(A.N. Jindal)
Judge